

MINUTES

**MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
CONFERENCE COMMITTEE ON HOUSE AMENDMENTS TO SENATE BILL 283**

Call to Order: By **CHAIRMAN DUANE GRIMES**, on April 9, 2001 at
12:00 P.M., in Room 350 Capitol.

ROLL CALL

Members Present:

Sen. Duane Grimes, Chairman (R)
Rep. Mark Noennig, Vice Chairman (R)
Rep. Bill Eggers (D)
Rep. Linda Holden (R)
Sen. Mignon Waterman (D)
Sen. Jack Wells (R)

Members Excused: None.

Members Absent: None.

Staff Present: Susan Fox, Legislative Branch
Mary Gay Wells, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Executive Action: SB 283 Amended

{Tape : 1; Side : A; Approx. Time Counter : 0}

HEARING ON SB 283

Comments and Questions from Committee Members and Responses:

CHAIRMAN DUANE GRIMES opened the meeting. Since it was a Conference Committee, they would only address the amendments put on by the House. He asked **SEN. MIGNON WATERMAN** to explain what the amendments were.

SEN. WATERMAN explained the House Committee of the Whole amendments essentially conformed the foster care review committees and citizens' review boards to comply with the Adoption and Safe Families Act of 1997. There was no controversy with that.

There were amendments put on in the House Judiciary and that was where the concern arose. The first amendment, "electronic and paper" had been explained to her by **REP. MARK NOENNIG**. The concern was allowing electronic access to the Dept's computers and people could get into all cases and not just one case. **REP. NOENNIG** said he thought that meant they could get information on disc as well as on paper.

REP. NOENNIG said he thought the intent was to limit information to electronic records of a particular case. This could be copied and reproduced, but it may be necessary to have some clarifying language.

SEN. WATERMAN offered that it would not be fair to allow a citizens' review board or a foster care review board to simply wander through the Dept's electronic programs.

CHAIRMAN GRIMES asked for language to limit the scope. **Susan Fox, Legislative Branch**, said Section 8, Subsection (a) dealt with district court records. She suggested moving "electronic and paper records" to the end of the sentence on line 12.

REP. BILL EGGERS suggested language to say "authorized electronic and paper records."

CHAIRMAN GRIMES asked **Chuck Hunter** to speak. **Mr. Hunter, Dept. of Public Health and Human Services**, suggested that "authorize" not be used and stick with the restrictive language "pertinent to the case." The Dept. would have to figure out how to get only pertinent information off the electronic records.

REP. EGGERS inquired if there were electronic records pertinent to the case covered by some privacy law either in regard to the subject matter or the people involved. **Mr. Hunter** answered yes.

It is fairly specific as to what can or can't be released. Once they are reviewing the case, anything in their case file would be released.

REP. LINDA HOLDEN made comment on which word was better: pertinent or permissible. **CHAIRMAN GRIMES** answered pertinent. He said they would wait to vote on this.

SEN. WATERMAN presented a fax from John W. Larson, District Judge **EXHIBIT (ccs80sb0283a01)**. He had suggested some language from a national guideline's publication. She did not care for the language that was added in House Judiciary on page 9, lines 2-14. She recommended keeping lines 1, 2 and 3 and drop down to line 15. The other language was too broad. The most contentious sentence on the list was the first one on line 9 "(I) Dangers to the child and any family problems precipitating those dangers." It was too broad and undefined and would give a counselor too much leeway.

REP. NOENNIG felt that lines 3, starting at "The board shall" through "results" on line 7 should be taken out as it covered information that did not relate to a particular case being studied. He suggested they should keep in line 7 starting at "In evaluating..." and continue on. Line 9 could be made more clear.

CHAIRMAN GRIMES asked the group to discuss **REP. NOENNIG'S** proposal as a motion. Strike everything from "The board" on line 3 down to "achievement of results." on line 7. On line 8, he wanted to change the word "shall" to "may." That suggestion met with acceptance. The committee agreed to pull out the above suggested language from line 3 to line 7.

He then asked them to address line 9. He did not want to put citizens' review boards in the same position that the agencies have been in where they are forced to turn over rocks that they might not otherwise turn over.

SEN. JACK WELLS stated that in evaluating the accessibility of services, etc., he did not mind number (II), but number (I) was not good. That language gives a serious target with the word "dangers."

There was discussion on different words and language that could be used to replace (I) on line 9. **REP. LINDA NELSON AND REP. NOENNIG** both spoke.

REP. EGGERS asked if **Susan Fox** could come up with some appropriate language that would state how the committee felt. He suggested "detriments to the child and potential consequences."

SEN. WATERMAN explained to the committee that the family that was being looked at was the biological family, not the foster family. The child's real family was being evaluated to see if the child could safely be returned to them.

CHAIRMAN GRIMES asked **Chuck Hunter** to address these issues.

Chuck Hunter observed that what was being looked at on lines (I) through (V) was nothing remarkably different from what has usually been discussed concerning these kinds of cases. These are standards toward reasonable efforts that the Dept. must make to move these cases along. This list will not appear in the foster care review committee's statutes, the other seventeen judicial districts. There will be a slightly different standard for review under citizens' review boards. Line 9 gets to what are the safety considerations regarding kids.

Susan Fox suggested "safety of the child."

CHAIRMAN GRIMES asked if everyone agreed with "safety of the child" to be used on line 9.

Everyone was fine with the above and with the use of "may."

The committee had some concerns with the language on lines 12 and 13. The Dept. had 70 fewer case workers and they were doing their very best. They decided to leave that language alone.

Motion: **SEN. WATERMAN** moved **TO AMEND SB 283**

EXHIBIT (ccs80sb0283a02). She added that "shall" will be replaced with "may" and on line 9 substitute "Safety of the child."

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Vote: Motion carried 6-0.

Motion/Vote: **SEN. WATERMAN** moved **TO AMEND LINE 9 ON PAGE 8:**

INSERT "PERTINENT" FOLLOWING "ANY." Motion carried unanimously.

"Any" had already been stricken.

Susan Fox pointed out that on page 9, lines 20 and 21 and page 15, line 19, there seemed to be somewhat of a problem. The language states "Adoption and Safe Families Act of 1997, as enacted." If the federal act is changed then the legislature would have to come back into the statute and make changes. That

would not have to happen if "as enacted" were taken out in both places.

REP. NOENNIG made the suggestion to allow **Susan Fox** to check this out and do whatever was needed in relation to "as enacted."

All were in agreement with that suggestion.

Susan Fox later turned in the amendments that she had prepared showing all amendments **EXHIBIT (ccs80sb0283a03)**. "As enacted" was stricken.

ADJOURNMENT

Adjournment: 1:00 P.M.

SEN. DUANE GRIMES, Chairman

MARY GAY WELLS, Secretary

DG/MGW

EXHIBIT (ccs80sb0283aad)